

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Elections Code Sections 15151 and 15375, as  
amended by Statutes 1999, Chapter 18;

Filed on October 25, 1999;

By the County of Tuolumne, Claimant

No. 05-PGA-02 (99-TC-04)

*Presidential Primaries 2000*

SET ASIDE OF PARAMETERS AND  
GUIDELINES

*Adopted on December 9, 2005*

**ORDER TO SET ASIDE PARAMETERS AND GUIDELINES**

Prior to the test claim legislation, Elections Code section 15151 required local elections officials to transmit to the Secretary of State in two hour intervals, the semifinal official vote count for all:

- Candidates for Statewide Office
- State Assembly Candidates
- State Senate Candidates,
- Members of the U.S. House of Representatives,
- Members of the State Board of Equalization
- Justices of the Court of Appeals
- All persons voted for at a presidential primary or for electors of President and Vice President of the United States
- Ballot Measures

Election Code section 15375 required local elections officials to transmit to the Secretary of State the final results of the vote count for the above-named candidates and measures within 35 days of the election. Section 15375 also requires the local elections officials to transmit to the Secretary of State the final count of all persons voted for at the presidential primary for delegates to national conventions within 28 days of the election.

The test claim legislation amended Elections Code sections 15151 and 15375 to require local election officials to transmit both semi-final and final election results for presidential primaries in two separate tallies to the Secretary of State. On October 25, 2001, the Commission on State Mandates (Commission) adopted its Statement of Decision that the test claim constituted a

reimbursable state-mandated program pursuant to article XIII B, section 6 of the California Constitution and Government Code section 17514.

The portions of Elections Code sections 15151 and 15375 that constituted this mandated program (i.e., requiring elections officials to transmit election results for presidential primaries in two separate tallies) were repealed by Statutes 2005, chapter 72 (Assem. Bill No. 138, eff. July 19, 2005). The activities required in Elections Code sections 15151 and 15375 by prior law remain unchanged.

Article XIII B, section 6 of the California Constitution states that “whenever the Legislature or any state agency *mandates* a new program or higher level of service on any local government, the state shall provide a subvention of funds.” (Emphasis added.) This constitutional provision was specifically intended to prevent the state from forcing programs on local government that *require* expenditure by local governments of their tax revenues.<sup>1</sup> To implement article XIII B, section 6, the Legislature enacted Government Code section 17500 et seq. Government Code section 17514 defines “costs mandated by the state” as “any increased costs which a local agency or school district is *required* to incur . . . as a result of any statute. . . which *mandates* a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.” (Emphasis added.)

The Commission finds that the portions of the test claim statutes, Elections Code sections 15151 and 15375 that constituted the *Presidential Primaries 2000* program were repealed by Statutes 2005, chapter 72, in effect repealing the mandated program. Without the these portions of the test claim statute, no reimbursement is required pursuant to article XIII B, section 6 of the Constitution and Government Code section 17514 because there is no *Presidential Primaries 2000* program.

Therefore, the Commission sets aside the parameters and guidelines for the *Presidential Primaries 2000* program, effective July 19, 2005.

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PAULA HIGASHI, Executive Director

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Date

Attachment

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<sup>1</sup> *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283-1284.